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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MISTY HONG, minor A.S., through her mother and legal guardian LAUREL SLOTHOWER, minor A.R., through her mother and legal guardian GILDA AVILA, MEGHAN SMITH, minors C.W. and I.W., through their mother and legal guardian MIKHAILA WOODALL, and minor R.P., through her mother and legal guardian LYNN PAVALON individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

BYTEDANCE, INC., a corporation, TIKTOK, INC., a corporation; BEIJING BYTEDANCE TECHNOLOGY CO. LTD., a privately-held company; and MUSICAL.LY, a corporation,

Defendants.

P. S., a minor, by and through her Guardian, CHERISE SLATE, and M. T. W., a minor, by and through her Guardian, BRENDA

Case No. 5:19-cv-07792-LHK

**INTERESTED PARTY RESPONSE IN
SUPPORT OF ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED**

Civ. L.R. 3-12

Case No. 3:20-cv-02992-WHO

WASHINGTON, individually and on behalf
of all others similarly situated,

Plaintiffs,

vs.

TIKTOK, INC., a corporation, and
BYTEDANCE, INC., a corporation,

Defendants.

D.M. and A.M., minors, by and through their
guardian, Porchia Heidelberg, A.O., a minor, by
and through his guardian, Jasmin Beverly, M.P.,
a minor, by and through her guardian Requeenis
Gilder, on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

TIKTOK, INC., a corporation, and
BYTEDANCE, INC., a corporation,

Defendants.

Case No. 3:20-cv-03185-LB

TO THE COURT AND ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that pursuant to Civ. L.R. 3-12(e), Plaintiffs D.M and A.M., minors, by and through their guardian Porchia Heidelberg, A.O, a minor, by and through his guardian Jasmin Beverley, and M.P., a minor, by and through her guardian Requeenis Gilder (the “D.M. Plaintiffs”), submit this Response in Support of the Administrative Motion to Relate *Hong v. TikTok, Inc.*, No. 5:19-cv-07792-LHK (N.D. Cal. filed Nov. 27, 2019) (“*Hong*”), and *P. S., a minor, by and through her Guardian, Cherise Slate v. TikTok, Inc.*, No. 3:20-cv-02992-WHO (N.D. Cal. filed Apr. 30, 2020) (“*P.S.*”).

The D.M. Plaintiffs filed their complaint on May 8, 2020, and designated their case as related to *P.S.* because both actions allege Defendants violated the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.* (the “BIPA”). *See D.M.*, No. 3:20-cv-03185-LB (N.D. Cal.), ECF No. 1-1. On May 11, however, the Plaintiffs in the earlier-filed *Hong* case amended their complaint to assert a claim against Defendants for BIPA violations on behalf of Illinois minors. ECF No. 35. Similar to the complaints in *P.S.* and *D.M.*, the amended complaint in *Hong* alleges that TikTok scanned and collected users’ biometric data in violation of the BIPA. All three actions assert claims against TikTok and its corporate parent ByteDance, and all three are putative class actions with overlapping class definitions. Thus, each action will require adjudication of the same or substantially similar questions of law and fact.

Separate assignment of these actions would, therefore, result in duplication of labor and expenses and potential inconsistent results. Relating these actions, in contrast, will conserve judicial and party resources and ensure uniform adjudication for Defendants and class members. *See Civ. L.R. 3-12(a)* (cases will be deemed related where they (1) “concern substantially the same parties, property, transaction or event,” and (2) it “appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.”).

In addition, since the undersigned counsel filed *D.M.*, two other similar cases have been filed against TikTok in this District: *R.S. v. TikTok, Inc.*, No. 20-cv-03212-SVK (filed May 11, 2020), and *S.A. v. TikTok, Inc.*, No. 20-cv-03294-NC (filed May 14, 2020). The chart on the next page shows the cases currently on file in this District that the D.M. Plaintiffs believe should be designated as related:

	Case Name	Case Number	Date Filed	Judicial District
1	<i>Hong et al. v. ByteDance, Inc. et al.</i>	19-cv-07792-LHK	Nov. 27, 2019	N.D. Cal. (San Jose Division)
2	<i>P. S., a minor, by and through her guardian, Cherise Slate et al. v. TikTok, Inc. et al.</i>	20-cv-02992	Apr. 30, 2020	N.D. Cal. (assigned to San Francisco Division)
3	<i>D.M. and A.M., minors, by and through their guardian, Porchia Heidelberg et al. v. TikTok, Inc. et al.</i>	20-cv-03185	May 8, 2020	N.D. Cal. (assigned to San Francisco Division)
4	<i>R.S. and J.S., through their guardian v. TikTok, Inc. et al.</i>	20-cv-03212	May 11, 2020	N.D. Cal. (assigned to San Francisco Division)
5	<i>S.A., a minor, by and through his mother and guardian, Maritza A. v. TikTok, Inc. et al.</i>	20-cv-03294	May 14, 2020	N.D. Cal. (assigned to San Jose Division)

All of these cases allege that TikTok violated the BIPA by collecting biometric data from users without obtaining their informed consent.

The D.M. Plaintiffs accordingly support: (1) consolidation of these related actions under Rule 42(a); and (2) setting a procedure for the prompt appointment of Interim Lead Class Counsel under Rule 23(g)(3). Counsel for Defendants in *Hong* have proposed such a procedure, and the D.M. Plaintiffs concur that appointment of plaintiffs' interim leadership will promote the orderly organization and management of these matters.

Dated: May 15, 2020

Respectfully submitted,

By: /s/ Daniel C. Girard
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minors, by and through their guardian,
Porchia Heidelberg, A.O, a minor, by
and through his guardian, Jasmin
Beverley, and M.P., a minor, by and
through her guardian, Requeenis Gilder*

CERTIFICATE OF SERVICE

I certify that on May 15, 2020, I filed the foregoing document with the Clerk of the Court for the United States District Court, Northern District of California, by using the CM/ECF system. I also served counsel of record via this Court's CM/ECF system.

/s/ Daniel C. Girard